IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2189 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE D.A.MEHTA

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TEXPRINT ENGINEERS PVT LTD
Versus
SURAT MUNICIPAL CORPORATION

Appearance:
1. Special Civil Application No. 2189 of 1985
MR KS NANAVATI for Petitioners No. 1-2
NOTICE SERVED for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE D.A.MEHTA

Date of decision: 07/02/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

#. The petitioner, a Private Limited Company, has challenged by way of this Writ Petition Rule 17 of the Octroi Rules and Bye-law No. 10 of the Standing Orders issued under the said Rules by the Municipal Commissioner, Surat Municipal Corporation, as being violative of Articles 19 and 31 of the Constitution of India.

#. The petitioner-Company imports certain goods which are liable to octroi duty within the limits of Surat Municipal Corporation and stores them in bonded warehouse

and thereafter exports the same outside the limits of Surat Municipal Corporation for the purposes of its manufacturing activities. As per the relevant Rules and the Bye-laws, the requirement is to export those goods within a period of six months from the date of import within the Corporation limits.

#. However, the said provisions has already been construed by this Court in the case of I.C.G. Texturing Industry and Anr. v. Surat Municipal Corporation reported in 1984 (1) 25 GLR 197, wherein it is distinctly laid down that the said time limit is not mandatory in terms, but the Authority has the discretion to permit export of such goods beyond the specified time limit and refund the octroi duty levied at the time of import.

#. In view of the fact that the issue raised in the present Petition stands concluded by the aforesaid decision of this Court, it is not necessary to set out the facts and contentions in detail. Suffice it to state that in the affidavit-in-reply filed on behalf of the respondent in paragraph 12 it is stated as under:-

> "12. .... I say that when the goods are imported in the city of Surat, petitioners are bound to pay octroi duty and if they export the goods and fulfil the conditions in the Standing Order 10, Rule 17, they are entitled to refund as mentioned in the said Rules. .... I say that as regards the time limit mentioned in Rule 17 is concerned, this Hon'ble Court has delivered the judgment as referred to above. I say that therefore, the challenge to the said time limit is not maintainable in this petition. .... I say that as regards Rule 17 is concerned, the Hon'ble Court has already delivered the judgment and it is implemented and therefore, there is no question of any time limit as referred to in this para."

#. This Petition is, therefore, allowed. The refund claims filed by the petitioner-Company shall therefore be dealt with by the Authorities of the Corporation in terms of Rule 17 read with Bye-law No. 10 of Standing Orders and in accordance with the decision of this Court in the case of I.C.G. Texturing Industry (supra).

Rule is made absolute in aforesaid terms. There shall be no order as to costs.

(D.M. DHARMADHIKARI,C.J.)

(D.A. MEHTA, J.)

[sndevu]